

76. In 2002, I ran into John Pitingolo in Arlington Center. During our visit he told me the band was playing again. He said, "Walter didn't have the David Gilmour sound" like I did, "My sound was missing". He told me details of new video equipment, that Walter invested about \$30,000.00 for this equipment. I told John I wanted to come visit, and play with them. John consented to this and suggested that I call Tony.

77. I called Tony and expressed my desire to reunite. His response was there was no band, to not show up. The next day I received email from Tony stating "Rehearsals are closed to the public" "I was not welcome". I told my wife, my sister and my cousin Corry the details of these conversations

78. In late 2001, I saw our website [www.PinkVoyd.com](http://www.PinkVoyd.com) advertising "Pink Voyd" with the video clips of me performing with them. I have submitted them as evidence (Please refer to Defendant's exhibit 9, Attachment A).

79. Plaintiffs continue commerce with same exact venues (highlighted) which are specific to my IP. Mr. Stickle has provided the performance history of the current "Pink Voyd" in his sworn testimony to corroborate this. I submit (Defendant's exhibit 27). The Plaintiffs also listed the exact venues specific to my IP including "The Mood" on the METATAG of the "gigs" page of [Pinkvoyd.com](http://Pinkvoyd.com) (Defendant's exhibit 27, Attachment A).

80. Good Times, Somerville MA, I had established a rapport with Chris McMahon Manger of the club, Chris was most professional and accommodating to anyone he has business with. Many times he discussed with me the policies of the upper management about their budget for paying live talent. I had explained this to Tony many times and I had made clear that I thought that Good Times was the perfect

location for us to use as a "home base" and to establish many return performances and branch out from there.

81. Tony refused and had made it known that he would rather do this at The Town Line in Saugus, MA I did however attempt many times to introduce myself and establish a rapport with The Town Line management, but I was simply told, that they had no interest at the time for bringing in "tribute acts." Tony voiced his opinion that he no longer wanted me to book our show at Good Times, there wasn't enough money in it and performing at a place like that, would ruin our credibility, reputation, and value of the band and cause embarrassment associating with or appearing there, yet the plaintiffs have appeared at Good Times 5 separate times (without me), as sworn to by Stickle.

82. Plaintiffs currently use and advertise same exact light show (Please refer to Defendant's exhibit 19 and attachment A) and same exact sound system specific to my IP (with "The Mood" stenciled on it). The printout from Pinkvoyd.com, "The Mood" listed in the META TAG (Defendant's exhibit 28).

**ANTHONY CALIENDO HAS PROVIDED FALSE AND MISLEADING STATEMENTS ON HIS SWORN AFFIDAVIT (PARAGRAPHS 41 - 45)**

83. (Plaintiff's exhibit A paragraph 4.) "I joined The Mood sometime in late 1999 or early 2000." I submit evidence an invoice for equipment I purchased and shipped to ACAL Copiers (Defendant's exhibit 29), Also as evidence, a check dated July 8 1998, (Defendant's exhibit 30) to reimburse him for a stand his wife Caroline picked up for me.

84. (Plaintiff's exhibit A paragraph 5). "Although I was not aware of it at the time, Mr. Orfanos made me a 50% partner with him in "The Mood", and put my name on

the Trademark that he obtained." This evidence is the application that was filed with the UNITED STATES PATENT AND TRADEMARK OFFICE, with Mr. Caliendo's signature (Defendant's exhibit 31).

85. Plaintiff's exhibit A. Paragraph 7. "Subsequently Walter Stickle and Dan Fisher were added to "The Pink Floyd Experience" as band members." This is contradictory to Dan Fisher's sworn testimony, (Plaintiff's exhibit D, paragraph 3).

86. Submitted as evidence, a printout from the "Keyboards" page from "The Mood" website, Dan Fisher's self written biography joining "The Mood" in Mr. Fisher's own words, thanking the late Ray Crandall for assistance with taking over the responsibility of "The Mood's" keys and sound effects. (Defendant's exhibit 32).

87. (Plaintiff's exhibit A, Paragraph, 9.) "Mr. Pitingolo came up with the name "Pink Void", and we discussed changing the name of the band to "Pink Void" or "Pink Voyd". All of the band members liked the idea of changing the name to "Pink Voyd" except Mr. Orfanos. Regardless of how it was spelled, Mr. Orfanos was adamant that he did not like the name "Pink Voyd" and did not want to change the band's name." This statement confirms that "The Mood" was changed to "Pink Voyd." Mr. Caliendo contradicts himself.

**WALTER STICKLE HAS PROVIDED FALSE AND MISLEADING STATEMENTS ON HIS SWORN AFFIDAVIT (PARAGRAPHS 41 - 45)**

88. (Plaintiff's exhibit B. paragraph 5.) "As I understood it, the organization was originally called The Mood. Mr. Stickle acknowledges "Pink Voyd" is "The Mood". (Plaintiff's exhibit B paragraph 5) "I never played in any venue for a band called "The Mood." I submit as evidence an expense list from our first performance as

"The Mood" March 8, 2001, at Goodtimes in Somerville, Ma (Defendant's exhibit 33).

"The Mood" performed the June 2, 2001 show as "Pink Floyd Experience."

(Defendant's exhibit 33, Attachment A). This was before I agreed to change the name to "Pink Voyd", the plaintiffs have agreed to this in their sworn testimonies.

89. I submit as evidence artwork used for my IP and currently being used by "Pink Voyd" (Defendant's exhibit 33, Attachment B) and printouts from The-Mood.com announcing our transition. This evidence shows the exact replication how the Plaintiffs use to identify and advertise "Pink Voyd" (Defendant's exhibit 34). They even copy the style in which Ray Crandall and I maintained the website. The Plaintiffs however have a distinctive variation in which reads "record perfect copies", this may suggest that they are still in use of stolen IP and copy written works from Pink Floyd.

90. Mr. Stickle tries to disassociate me with "Pink Voyd" but admits in his sworn testimony (Plaintiff's exhibit B, paragraph 7) "During rehearsals, none of us was particularly happy with the name "Pink Floyd Experience" and John Pitingolo suggested the name Pink Voyd. While all of us liked that name, Arthur vehemently objected to it".

91. (Plaintiff's exhibit B, paragraph 16) "When we went to set up our website in November of 2001, we discovered that he had even registered "PinkVoyd.com". "We pursued it with him and the result of these negotiations was that Mr. Orfanos, gave up all right to the name Pink Voyd and the website PinkVoyd.com was transferred".

Mr. Stickle's statement is contradictory, there is no evidence I gave up rights to anything.

92. (Plaintiff's exhibit B paragraph 7) "we played the June 2 concert as the Pink Floyd Experience. Only later did we discover that he registered PinkVoyd.com immediately after this one discussion." Mr. Stickle does not have his facts straight he is

attempting to twist the truth, he agrees I registered Pinkvoyd.com in June, 2001 (although I did it earlier) and then says he discovered this in November 2001. My evidence shows that I transferred registration of Pinkvoyd.com to he and John Pitingolo, May 23, 2001. (Please refer to Defendant's exhibit 26). His testimony makes no sense.

93. Janet Stickle was introduced to members of "The Mood" and expressed her desires to become the band's photographer and/or videographer and her abilities to run visual equipment to be used in the artistic display of live performances of "The Mood." I expressed that I was not pleased with this, I suspected that plans were being made without my approval and/or authorization and behind my back for personnel to be included or hired into the band.

94. I believe this was additional motive to have me removed from "The Mood/"Pink Voyd" project especially by the individual who has replaced my role in the band as sole guitar player, and "the leader" of this group, (the lead plaintiff.) [He] wanted his wife involved with the project. I was against this, I mentioned this to John, Tony, Eric, and Eamon more than once.

95. Janet is currently employed as the Plaintiff's video personnel (Defendant's exhibit 35), she has not provided sworn testimony supporting her husband, or the other Plaintiffs. I think it's odd that none of their wives have provided testimonies to support the Plaintiffs, especially in such an important matter as this

**JOHN PITINGOLO HAS PROVIDED FALSE AND MISLEADING STATEMENTS ON HIS SWORN AFFIDAVIT (PARAGRAPHS 54 - 60)**

96. (Plaintiff's exhibit C. Paragraph 3.) "it only became worse after Mr.

Fisher and Mr. Stickle joined the group," Mr. Pitingolo agrees that Mr. Fisher and Mr. Stickle joined "The Mood" in 2001, this contradicts Mr. Stickle (Plaintiff's exhibit B) and Mr. Caliendo's (Plaintiff's exhibit A) sworn statements.

97. (Plaintiff's exhibit C paragraph 3), "Almost from the start Mr. Orfanos had a "my way or the highway" attitude and artistic direction of the band." If Mr. Pitingolo objected in ways in which I conducted the band, it's business and ethics, [he] had the freedom to leave my band, but instead he chose to stay and opt to force me out.

98. Plaintiff's exhibit C paragraph 4. "we discussed the possibility of changing the name of the band." This too supports my testimony that the name was changed. The plaintiffs are also so determined to say that I objected to changing the name of the band to "Pink Voyd", this alone supports the truth that "The Mood" was changed to "Pink Floyd Experience" (they agree for the one show, as do I), and finally "Pink Voyd."

99. Plaintiffs exhibit C paragraph 6. "Mr. Orfanos, however, hated the name "Pink Void" or "Pink Voyd" and told the rest of us that there was no way that the name of the band was going to be changed to that." This supports my testimony that I was still involved when changing "The Mood" to "Pink Voyd." This also supports that the name "Pink Voyd" was offered, if not insisted for my use.

100. Plaintiff's Exhibit C paragraph 8. "By July of 2001, we had formed the band "Pink Voyd" "He was not present at any of our meetings." This sworn testimony contradicts itself. This statement also agrees that deliberate plans were made against my will consent, to have me forcefully removed and continue with my IP. I submit evidence (Defendant's exhibit 36).

101. Plaintiff's Exhibit C paragraph 11. "I know that he is using some of these

"Pink Voyd" posters on his website [www.pinkvoyd.net](http://www.pinkvoyd.net)" (Please refer to Defendant's exhibit 13), same exact artwork for "The Mood" created by Mr. Pitingolo, currently being used by "Pink Voyd." Mr. Pitingolo associates "The Mood" with "Pink Voyd." Under oath, he's referring to artwork entitled "The Mood" and calling it "Pink Voyd."

**DAN FISHER HAS PROVIDED FALSE AND MISLEADING STATEMENTS ON HIS SWORN AFFIDAVIT (PARAGRAPHS 61 - 62)**

102. (Plaintiff's Exhibit D, Paragraph 3) "In October 2000, I joined the band "Pink Floyd Experience," which had also been called "The Mood." Mr. Fisher agrees that he joined "The Mood." He also spoke to the late Ray Crandall, and visited in regards to taking his place in "The Mood." I have submitted this evidence that Mr. Fisher admits that he joined "The Mood." (Please refer to Defendant's Exhibit 32)

103. Plaintiff's exhibit D paragraph 4. "During this time, the band members discussed changing the name of the band" this concurs and supports my testimony that I was present during the creative process and involved with changing the name of "The Mood." I was told they took a vote I asked why I was not present during the vote, I was told me that "they knew I was going to vote no, so my vote did not count."

104. I submit as evidence a portion of my 2000 personal income tax return. I was operating as "The Mood" as my IP (Defendant's exhibit 37).

105. Steven Pitingolo has provided inaccurate statements in his sworn affidavit (Plaintiffs' exhibit E. Paragraph 2). He testifies that his brother John joined "The Mood" in 2001. Steven Pitingolo was on leave the week that I contacted John During the July 4th 2000 holiday. He lent John the money to purchase his equipment.

He does provide accurate statements under oath, he remembers the band was thinking of changing their name to "Pink Voyd." This supports my testimony and discredits testimonies that I had no involvement with "Pink Voyd."

106. Eamon Tighe has provided statements that support my testimony. (Plaintiffs' exhibit F paragraph 3) "Approximately five years ago, I began running the lights and laser show for a band called "The Mood". "The Mood" was later renamed as "The Pink Floyd Experience"

107. Plaintiff's exhibit F paragraph 5, "I was present at one of the band rehearsals when Mr. Pitingolo suggested the name "Pink Void." "Mr. Stickle, Mr. Caliendo, and Mr. Fisher liked the name, but had the idea of spelling it "Pink Voyd." "All of the band members liked the idea of changing the name to "Pink Voyd" except for Mr. Orfanos. Mr. Orfanos stated that he did not like the name and did not want to change the band's name." Mr. Tighe concurs that my IP was changed from "The Mood" to "Pink Voyd."

108. Mr. William Easton has provided misleading and/or contradictory statements on his sworn affidavit. (Plaintiff's exhibit I. Paragraph 2.) He is unaware of the details. Mr. Easton had visited some band rehearsals at the ACAL copiers building, this is where I was introduced to him. He testified that I was not present at any "Pink Voyd" rehearsals. Many of the other employees of ACAL Copiers know that Tony was involved with me since 1998, otherwise many of them would have supplied testimony on behalf of the plaintiffs, they probably didn't want to commit perjury.

109. I believe that Mr. Easton is the party responsible for posting the libelous remarks on my guestbook (Defendant's exhibit 38) signed "Billy" on June 4, 2004 ,

"you I see aren't in the frame of Mind", and also posted (Defendant's exhibit 38, Attachment A) signed "Billy", May 27, 2004, "Arthur is just a bloody trouble maker." Billy Easton is a friend of Mr. Caliendo.

**ROBERT CALIENDO HAS PROVIDED FALSE AND MISLEADING STATEMENTS ON HIS SWORN AFFIDAVIT (PARAGRAPHS 70 -73)**

110. (Plaintiff's exhibit J, Paragraph 4). "I know Arthur Orfanos is, and he was never present during any of the rehearsals or concerts that I attended." It has already been established that the band was rehearsing at the ACAL copiers building (Please refer to Defendant's exhibit 29).

111. Robert Caliendo, an employee of ACAL Copiers has seen me and communicated with me at several rehearsals there and performances prior to June 2, 2001. I submit evidence, an invitation to a party at the ACAL Building the "The Mood" performed at December 18, 1999 (Defendant's exhibit 39). Many other employees of ACAL Copiers, know Tony was involved with "The Mood" since 1998.

112. Tony Caliendo gave me an envelope containing about \$15,000.00 in cash. He asked me to return in the front door of the building, and hand this envelope to Bob. He wanted Bobby to think, that I was bringing this money to pay for the lights, (same equipment currently being used and advertised by the Plaintiffs).

113. I never gave it much thought but I realize now, that it's likely that Tony took this money from the company or did something that he wished to hide from his brother, I don't know for sure but it appears that way more so now than then, this could be another reason why Tony was so adamant about avoiding me.

114. Bobby is a good guy, he was always respectful to me, I never thought he

would lie, or lie in court about this, he probably forgot about the time I gave him that money. It's likely that Robert Caliendo is not aware of this and that he is unclear of the facts as he has stated under oath. Otherwise, to Bobby Caliendo's knowledge, the Martin robotic lights are my property, this should have been something that he questioned before being so quick to sign a false statement against me. This also would tie me in with "Pink Voyd", something that I know none of the other plaintiffs would have knowledge of.

115. Plaintiff's exhibit M. Ms. Mandi Jo Jastremski's Testimony is an inaccurate print out of my Pinkvoyd.net website. She has omitted "The Mood" page which show photographs of myself and the Late Richard Pontes (Defendant's exhibit 40)

116. She omitted "The Players" this includes photographs of "The Mood" which include myself , the late Ray Crandall, Mr. Caliendo, et al. (Defendant's exhibit 40, Attachment A).

117. She omitted "The News" page with displays photographs taken by myself and the late Ray Crandall which are presently being advertised on PinkVoyd.com (Defendant's exhibit 40, Attachment B).

118. She has omitted "The Music" page (Defendant's exhibit 40, Attachment C) which include recordings of "The Mood" with; the late Ray Crandall, the late Richard Pontes, Tony Caliendo etc. It's likely this was done intentionally in an attempt to avoid associating "The Mood" and "Pink Voyd."

119. Mr. Warren Scott. has provided false, misleading statements on his sworn affidavit. (Plaintiff's exhibit P. Paragraph 5.) "he telephoned me claiming that he owned Pink Voyd and I should cease booking the band." I spoke to Mr. Scott on

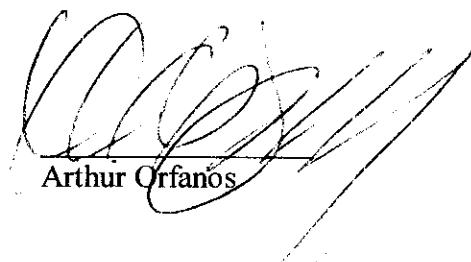
June 8, 2004, although I was not able to disclose the facts of my case, I never claimed he should stop booking the band, that is a lie.

81. It is malicious that, the person in a position of power, (Mr. Stickle) could afford to do his own project was brought into my IP against my will, attempting to assume my specific role, threatened me in the past with "legal action", is the one who initiated and leads this immoral and false litigation against me.

82. The Plaintiffs take this action against me with intent to devastate and inflict further physical, emotional, and financial distress and harm, to me and family. To this point, they have achieved their goals by this frivolous legal action against me. The Plaintiffs have attempted to mislead the honorable court and others.

83. They claim that "Pink Voyd" was created and established in a 2 to 3 week period, when infact they have provided sworn testimonies which support "The Mood" and "Pink Voyd" are the same exact thing, my Intellectual Property. I have provided evidence that I am the founder and creator of "The Mood"/ "Pink Voyd." I am the rightful owner of the Mark "PINK VOYD."

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 22 DAY  
OF July 2004.



Arthur Orfanos

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04 11539 JLT

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WALTER STICKLE, ANTHONY )  
CALIENDO, JOHN PITINGOLO, and )  
DANIEL FISHER, )  
Plaintiffs )  
v. )  
ARTHUR ORFANOS, )  
Defendant )  
\_\_\_\_\_  
)

**AFFIDVIT / CERTIFICATE OF SERVICE**

I, Mark E. Pelosky, Esq., of The Law Offices of Mark E. Pelosky, P.C., attorney for Defendant hereby depose under oath I have this day caused the following:

NOTICE OF APPEARANCE

DEFENDANT'S ANSWER TO COMPLAINT AND COUNTERCLAIMS

DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY  
INJUNCTION

DEFENDANT'S REQUEST FOR HEARING

AFFIDVAT / CERTIFICATE OF SERVICE

To be served upon Plaintiff's Counsel Michael B Newman, Clark Hunt and Embry, 55 Cambridge Parkway, Cambridge, MA 02142 by first class mail, postage prepaid.

Subscribed and sworn to under the pains and penalties of perjury on this 23<sup>rd</sup> day of August, 2004.

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Mark E. Pelosky, Esq.  
The Law Offices of Mark E. Pelosky, P.C.